S.B. CIVIL WRIT PETITION NO.3224/1995
(State of Rajasthan & Anr. Vs. Sumer Singh & Anr.)

DATE OF ORDER : AUGUST 8, 2007

HON'BLE MR.JUSTICE BHANWAROO KHAN

Mr.O.P.Rathi, Dy.G.A.
Mr.S.K.M.Vyas, for respondent

BY THE COURT

The respondent No.1 raised an industrial dispute with regard to the alleged termination of his services from the post of Pump Driver. The conciliation proceedings failed and failure report was sent to the government, which referred the matter to the Industrial Disputes Tribunal & Labour Court, Jodhpur. The petitioner filed reply before the Labour Court with the allegation that the respondent had not worked continuously for a period of 240 days and in fact he has worked with the Department from 1.4.1986 to 16.11.1986. The respondent moved to the competent authority under the Payment of Minimum Wages Act, which ordered to pay to him the due salary from 17.11.1986 to 31.12.1986. The said order was ex parte and the appeal submitted by the petitioner has also been rejected. The petitioner submitted before the Labour Court that it was the

respondent himself who abandoned the job and remained absent suo moto. The learned Labour Court without considering the evidence in proper perspective have given relief to the respondent.

This Court has heard the arguments of both the parties. The only dispute, which has been raised before the Labour Court is about whether the respondent had worked for more than 240 days in a preceding year or not. From the perusal of the order of the learned Labour Court, it is revealed that petitioner has admitted about the service of the respondent for the period from 1.4.1986 to 16.11.1986, for which the salary has already been paid. But the respondent has claimed that he worked from 1.4.1986 to 31.12.1986 and for the payment of salary for the period from 17.11.1986 to 31.12.1986, he moved an application before the competent authority under the Payment of Minimum Wages Act, which was accepted by the authority and the department has paid the wages from 17.11.1986 to 31.12.1986. This order has become final after rejection of the appeal preferred by the petitioner. If this is so, the total period for which the respondent worked comes out to be more than 240 days. The learned Labour Court has committed neither any illegality nor any irregularity as it has come to the conclusion that the petitioner have not complied

with the statutory provision under Section 25-F of the Industrial Disputes Act as neither the notice has been served nor anything has been paid in lieu of such notice to the respondent. So total compliance of Section 25-F has not been made by the petitioner. The evidence tendered by the parties clearly show that the respondent had worked for more than 240 days. No illegality or irregularity can be found in the order of the learned Labour Court.

For the reasons mentioned above, there is no merit in the writ petition and the same deserves to be dismissed.

Consequently, the petition filed by the petitioner against the impugned order of the learned Labour Court is hereby dismissed. No order as to costs.

(BHANWAROO KHAN)J.

BKS/-